

Amendments to the Drawings:

The attached sheets of drawings include changes to Figures 1 and 2. These sheets replace the Currently Amended sheets including Figures 1 and 2. In both Figures 1 and 2, the drawings have been labeled "prior art."

Attachments: Replacement Sheet
Annotated Sheet Showing Changes

REMARKS

A. GENERALLY

Applicant thanks the examiner for extending the courtesy of a telephone interview to Applicant. Applicant's summary of the interview is attached hereto.

Claims 18-31 remain in the Application. Claims 1-17 have been canceled. Claims 18-31 have been added. No new matter has been added.

B. CLAIM REJECTIONS

1. Claim Rejections Pursuant to 35 U.S.C. § 102

Claims 1-17 have been rejected under 35 U.S.C. 102(e) as being anticipated by Applicant's Admitted Prior Art (AAPA).

The Office Action asserts that the limitations of claims 1-17 (as examined) are generally described by the disclosure at paragraphs [0008]-[0021]. Applicant has canceled claims in favor of newly added claims 18-31.

New claim 18 recites the following limitations (the limitations have been labeled for ease of discussion):

18. (New) A system for providing data filtering from a cable modem termination system (CMTS) in a cable data network comprising:

- [A] the CMTS, wherein the CMTS comprises a first network interface, a second network interface, and a data gateway agent and wherein the CMTS is configured for obtaining a packet count from a packet counter, wherein the packet count is determined from at least one of a downstream packet count indicative of packets received via the first network interface and sent to a subscriber device via the second network interface and an upstream packet count indicative of the packets received from the subscriber device via the second network interface for transmission via the first network interface; and
- [B] a datastore accessible to the data gateway agent for storing a selected data transfer rule, wherein a selected data transfer rule comprises packet content criteria selected by a subscriber, and
- [C] wherein the data gateway agent receives the packets via the first network interface prior to receipt of the packets by the packet counter, accesses the datastore, compares a packet to the packet content criteria, and if the packet satisfies the packet content criteria of the data transfer rule, then forwards the packet to the packet counter for counting, and if the packet does not satisfy the packet content criteria of the data transfer rule then applies a corrective measure to the packet.

The preamble of new claim 18 recites providing data filtering from a cable modem termination system (CMTS). Limitation 18[A] recites a CMTS comprising a first network

interface, a second network interface, a data gateway agent, and a counter. The CMTS is configured to receive a packet count from a packet counter.

Limitation 18[B] recites a datastore that is accessible to the data gateway agent. The datastore comprises selected data transfer rules comprising packet content criteria selected by a subscriber.

Limitation 18[C] recites that the data gateway agent located in the CMTS applies packet content criteria to an incoming packet. If the incoming packet satisfies packet content criteria, the packet is forwarded to the counter for counting. If the packet does not satisfy the packet content criteria, the data transfer rule applies a corrective measure.

The Office Action determined that the scope of claims 1-17 (as examined) encompassed the disclosure of AAPA. Applicant submits that paragraphs [0015]-[0019] of the Specification are descriptive of the problem that Applicant is seeking to solve and not descriptive of Applicant's solution as currently claimed. This is made clear by paragraphs [0020]-[0021] and paragraph [0069] of the Specification (emphasis added by underlining):

[20] One impediment to subscriber acceptance of consumption based billing is that subscriber filtering occurs at the CPE location. Before subscriber filtering can block an undesired data transfer packet, it must first receive the data at a filtering location under subscriber control. With existing subscriber filtering this occurs in the firewall of the cable modem hub or in the terminal or computer means.

[21] However, the subscriber is billed for all data transfer between the cable modem termination system (CMTS) and the cable modem hub, including data that is blocked or filtered by the subscriber. As a result subscribers are charged for data transfers that are unwanted and further beyond subscriber control. Hackers can target subscribers of a particular DOC carrier and create discontent by inflating consumption charges. While subscribers are normally receptive to consumption based billing, they are not receptive to paying for undesired or unwanted data traffic they are unable to prevent.

And:

[69] In contrast to CPE device based firewall filtering, the present invention performs Internet address filtering at the CMTS that is under the control and operation of the DOC carrier. CBB subscribers direct the CMTS filtering of data transfers that affect their consumption billing. In addition, other filtering is controlled by the DOC carrier to protect cable network resources and prevent Internet abuses.

Applicant submits that claim 18 (as amended) recites limitations not taught or reasonably suggested by the AAPA. As made clear in text cited above, the AAPA describes a filtering

process that occurs after a packet has been counted. At a minimum, limitation 18[C] recites the application of a data transfer rule before the packet is received by a counter.

Based on the foregoing, claim 18 is not anticipated by the prior art description of the Specification. Claims 19-24 as currently listed depend directly or indirectly from claim 18 and recite all of the limitations of that base claim. It follows that claims 19-24 also recite limitations not taught or reasonably suggested by the AAPA and are not anticipated by the AAPA as cited in the Office Action.

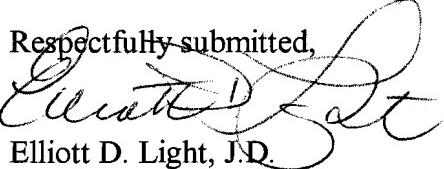
Claim 25 recites limitations of similar scope as claim 18 and is, for the reasons set forth with respect to claim 18, not anticipated by the AAPA. Claims 25-31 as currently listed depend directly or indirectly from claim 25 and recite all of the limitations of that base claim. It follows that claims 25-31 also recite limitations not taught or reasonably suggested by the AAPA and are not anticipated by the AAPA as cited in the Office Action.

2. **Claim Rejections Pursuant to 35 U.S.C. § 103**

Claims 5 and 14 have been rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA. Claims 5 and 14 have been canceled.

C. **CONCLUSION**

Applicant respectfully submits that the claims as currently listed are in condition for allowance. Applicant requests that this response be entered and that the current rejections of the claims now pending in this application be withdrawn in view of the above amendments, remarks and arguments.

Respectfully submitted,


Elliott D. Light, J.D.
Registration No. 51,948
Jon L. Roberts, Ph.D., J.D.
Registration No. 31,293
Roberts Mardula & Wertheim, LLC
11800 Sunrise Valley Drive, Suite 1000
Reston, VA 20191-5302
(703) 391-2900

ATTACHMENTS:

1. Replacement Sheets for Figures 1 and 2
2. Annotated Sheets Showing Changes in Figures 1 and 2